

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
for Authority to Establish Its Authorized Rates of  
Return on Common Equity for Electric Utility  
Operations and Gas Distribution for Test Year  
2003. (U 39 M)

Application 02-05-022  
(Filed May 8, 2002;  
Petition for Modification  
filed February 21, 2003)

And Related Matters.

Application 02-05-025  
(Filed May 8, 2002)  
Application 02-05-026  
(Filed May 8, 2002)  
Application 02-05-031  
(Filed May 8, 2002)

**ORDER GRANTING PACIFIC GAS AND ELECTRIC COMPANY'S  
PETITION TO MODIFY DECISION 02-11-027****I. Summary**

This order exempts Pacific Gas and Electric Company (PG&E) from filing a 2004 test year cost of capital (COC) application. This exemption is granted to avoid an overlapping review and analysis of PG&E's 2003 test year COC with its 2004 test year COC and to avoid an inefficient use of Commission and PG&E resources.

**II. Background**

PG&E is required to file a test year COC application on May 8<sup>th</sup> of each year, pursuant to D.89-01-048.<sup>1</sup> Consistent with this requirement, PG&E filed its 2003 test year COC application on May 8, 2002. By D.02-11-027, dated November 7, 2002, PG&E was authorized an 11.22% COC for its 2003 test year on an interim basis.

Ordering Paragraph 10 of that decision kept the proceeding open to true up PG&E's 2003-test year COC after it implemented a financing plan approved by the United States Bankruptcy Court of the Northern District of California. Although PG&E's 2003 test year COC proceeding remains open, PG&E is due to file a 2004 test year COC application on May 8, 2003.

**III. Petition**

On February 21, 2003, PG&E filed a petition to modify D.02-11-027 to allow it to forgo a 2004 test year COC application. PG&E seeks this exemption because its 2003 COC true-up is expected to trigger as early as late spring or early summer of 2003. Absent the requested exemption, PG&E contends that scrutiny of its 2003 COC true up will overlap the scrutiny of its 2004 test year COC application and result in an inefficient use of Commission and PG&E resources.

**IV. Discussion**

The Office of Ratepayer Advocates (ORA) filed a March 19, 2003 response in support of PG&E's petition on the basis that PG&E's COC "would be more

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<sup>1</sup> 30 CPUC2d 576 at 610 (1989).

accurately measured and determined when bankruptcy and other unusual electric crisis events are settled.”<sup>2</sup> No other responses were filed.

We concur with PG&E and ORA. Absent the requested exemption, there would be an overlapping review and analysis between PG&E’s 2003 and 2004 test year COC with a decision on PG&E’s 2004 test year COC conceivably being issued prior to a test year 2003 COC true-up decision. With no opposition to PG&E’s petition and no useful purpose being served by requiring PG&E to file a 2004 test year COC application prior to completion of its 2003 test year COC application, PG&E’s petition should be granted.

## **V. Comments on Draft Decision**

This is an uncontested matter, in which the decision grants the relief requested. Therefore, the applicable 30-day period for public review and comment is being waived pursuant to Section 311(g)(2) of the Public Utilities Code.

## **VI. Assignment of Proceeding**

Geoffrey Brown and Michael Peevey are the Assigned Commissioners and Michael Galvin is the assigned Administrative Law Judge in the proceeding.

## **Findings of Fact**

1. PG&E seeks authority to forego its 2004 test year COC application.
2. D.02-11-027 requires PG&E to true up its 2003 test year COC after it implements a financing plan approved by the Bankruptcy Court.
3. PG&E’s 2004 test year COC application is due to be filed on May 8, 2003.

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<sup>2</sup> ORA’s response at 2.

4. The bankruptcy court is expected to approval a Chapter 11 financing plan for PG&E as early as late spring or early summer of 2003.

5. Section 311(g)(2) of the Public Utilities Code permits the applicable 30-day period for public review and comment to be waived in an uncontested matter, in which the decision grants the relief requested.

### **Conclusion of Law**

PG&E's petition should be approved to avoid an overlapping review and analysis of its 2003 test years COC with its 2004 test year COC and to avoid an inefficient use of PG&E and Commission resources.

### **INTERIM ORDER**

#### **IT IS ORDERED** that:

1. Pacific Gas and Electric Company's (PG&E) is exempt from filing a 2004 test year cost of capital application.

2. Ordering Paragraph 10 of Decision 02-11-027 shall be modified to state that PG&E's Application (A.) 02-05-022 remains open to true up its test year 2003 ROE (return on equity) with changes in its capital structure, long-term debt and preferred stock costs, and risk that results from it implementing the financing contemplated by a Chapter 11 plan approved by the Bankruptcy Court that enables PG&E to emerge from Chapter 11. Within 30 days after completing any such financing, PG&E shall file a request in this proceeding for authority to true up its test year 2003 capital structure and ROE. That request shall include testimony on its revised capital structure, long-term debt and preferred stock cost, risks, and ROE. The filing requirements in this Ordering paragraph supercedes PG&E's normal cost of capital proceeding for the 2004 test year.

PG&E is exempted from filing a cost of capital application for the 2004 test year under the Rate Case Plan.

3. A.02-05-022 remains open for the receipt and resolution of an amended application requesting a true up PG&E's 2003 test year COC and to address a rehearing application filed by PG&E.

4. A.02-05-025 and A.02-05-026 are closed.

5. A.02-05-031 remains open to address a rehearing application filed by San Diego Gas & Electric Company.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.